

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA                    )  
  )  
                  vs.                            ) Criminal No. 04-176  
  )  
FREDERICK H. BANKS                         )

**O R D E R**

Frederick Banks ("Defendant") together with two other inmates at the Federal Correctional Institution, Yazoo City, Mississippi,<sup>1</sup> has filed a pleading entitled "Motion to Dismiss for Lack of Subject Matter Jurisdiction Pursuant to Federal Rule of Criminal Procedure 12(b); and Motion for Evidentiary Hearing; and Notice of Appearance," Docket No. 564. According to Defendant Banks - who holds himself out, under penalty of perjury (28 U.S.C. § 1746) as a "constitutional lawyer" "currently licensed to practice law in a tribal court" - the issue is whether the respective district courts which sentenced the defendants lacked jurisdiction over them, all of whom were allegedly "Indians outside of 'Indian Country'" at the time they were arrested and convicted. (Docket No. 564 at 9.)

As a "constitutional lawyer," Defendant Banks should be aware that the argument that this Court lacked jurisdiction over him - no matter what the basis of that argument -- must be raised in a petition brought pursuant to 28 U.S.C. § 2255. Defendant filed

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<sup>1</sup> According to the document, Danny Williams and Robert Wall pled guilty to unnamed crimes, apparently in the United States District Courts for the Northern District of New York and the Western District of Missouri. (Motion at 1 and 10.) This Court has no association whatsoever with their cases.

such a motion to vacate two days after judgment was entered against him and has subsequently filed two amended motions. (See Docket Nos. 432, 490, and 500.) The Court will consider all arguments regarding jurisdiction when Defendant has exhausted his right to appeal his conviction and sentence.

The Motion filed at Docket No. 564 is denied in its entirety.

February 20, 2009

/s/ Joy Flowers Conti  
Joy Flowers Conti  
United States District Judge

cc by U.S. Mail: Frederick Banks  
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